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IN THE HIGH COURT OF KARNATAK AT BANGALORE

DATED THIS THE 28TH DAY OF MAY, 1998

RE: TONC

THE HON'BLE MR. JUSTICE R.V.RAVENDRA

MAY 37 RESENT REVISTION PETITION NUMBER: 696/1998

BETWEEN:

Smt. Rathnamma
w/o late Gaviappa
r/o No.2,
Basavanna Temple Street,
Adugodi.
Bangalore-30.

PETITIONER.

(By Sri.V.F.Kumbah, Adv.,)

AND:

1. Sri.K.B.Hanumahitarayappa
s/o late Sheemegowda,
50 yrs
r/o No.2, Basavanna Temple Street,
Adugodi,
Bangalore- 30.

2. Sri.Pillai Rangaswamy,
s/o late Gaviappa
r/o Chikkalakshmaiah Layout,
Adugodi.
Bangalore-30.

RESPONDENTS

(By Sri.R.Lokesh, Adv.,)
for R

This petition is filed under Section 50(1) of K.R.C.Act, against the order dtd. 21-2-1998 in HRC No.288/1996 on the file of the Additional Small Cause Judge, Bangalore, allowing the petition filed under Section 21(1)(p) of K.R.C.Act.

This petition coming on for admission this day, the Court made the following:-

O R D E R

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First respondent is the owner of the petition schedule premises. Petitioner and the second respondent (mother and son) are admittedly the tenants.

2. First respondent filed a petition for eviction under provisos (h) & (p) to Section 21(1) of the Karnataka Rent Control Act, 1961 ('Act' for short). The Court below rejected the petition under proviso (h) and allowed the petition under proviso (p).
Feeling aggrieved, petitioner has filed this ^{revision} / petition.

3. It is not in dispute that second respondent (son of the petitioner) has acquired possession of the premises which consists of two tenements in the ground floor and two tenements in the first floor. The only ground put forth by the petitioner is that alternative accommodation has been acquired not by her but by her son; that she was not get along with her son and daughter-in-law and therefore she cannot be expected to come and live with her son.

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She therefore contends that even though petition could be allowed against her son(second respondent) under proviso (p), petition could not have been allowed under proviso (p) against her.

4. It is not in dispute that eviction petition was contested jointly by the petitioner and her son by filing a common objection statement. It was not the contention of either the petitioner or the second respondent that there existed any difference in the family. The tenancy in favour of the petitioner and her son was a single tenancy and not different. Contention of the petitioner that only for the purpose of order of eviction under proviso(p), she should be treated ^{as} separate from her son cannot be accepted. Infact, eviction petition was originally filed only against the petitioner's son (second respondent). Subsequently, petitioner was impleaded as the second respondent ^{which} in the petition.

5- Having regard to the peculiar facts and

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circumstances of the case and the undisputed position that vacant possession of a suitable alternative premises has been acquired in the name of the second respondent about two years prior to the filing of the eviction petition, there is no merit in this petition and no ground is made out for admission.

6. It is accordingly rejected. The time for vacating the premises is extended by fifteen days.

Sd/-
JUDGE

sp/020698